

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

William Edward Killian

Rose Mary Killian

Debtor(s).

William Edward Killian

Rose Mary Killian,

Plaintiff(s),

v.

Green Tree Servicing LLC

Defendant.

CASE NO: 05-14629-hb

Adv. Pro. No.: 08-80250-hb

CHAPTER: 13

**WITHDRAWAL OF MOTION TO STRIKE ANSWER  
And  
For Judgment on the Pleadings**

**COME NOW** the above-named Plaintiffs, by and through their attorney of record, and hereby withdraw their motion under Rule 7007.1 ("Rule") to strike Defendant's Answer to the Complaint and for judgment in favor of the Plaintiffs based on the allegations of the Complaint since Defendants have now belatedly complied with this Rule.

Contrary to the belief asserted in Defendant's Reply that Defendant was not required to comply with this mandatory bankruptcy Rule, Plaintiffs allege as follows:

1. In paragraph (a) of this Rule, only two exceptions to compliance are created. One is for filings made by a debtor and the other is for filings made by a governmental unit, neither of which apply to the Defendant.
2. As is clearly shown by the Advisory Committee Notes and the In Re McGraw case cited by Defendant, this Rule applies to an LLC just the same as it does to a corporation. There is clearly no difference in treatment for public or private corporations or LLCs. Any implication to the contrary by the Defendant is not well founded in law and misrepresents the law.
3. As is clearly shown by the last phrase of paragraph (a) of this Rule, compliance with this Rule requires that this disclosure statement must be filed even

if there is no controlling corporation to report. Any implication to the contrary by the Defendant is not well founded in law and misrepresents the law.

4. The Plaintiffs therefore believe that Defendant's assertion in the Reply that Defendant was not required to file the statement required by this Rule is unwarranted under existing law and is frivolous according to both the clear wording of the Rule itself and the legal authority cited by the Defendant in its Reply.

Date: February 2, 2009

s/ John R. Cantrell, Jr.  
Attorney for Plaintiffs  
Cantrell Law Firm PC  
PO Box 1276  
Goose Creek, SC 29445-1276  
843-797-2454 voice  
309-213-0922 fax  
lawyer@cantrellclan.com  
Fed. Ct. ID # 4951